File No. 491(18)

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Collection No.

(5)

Mysore Residency

Bangalore.

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Pros. / Serial Nos. 1-12

v. N. 1 to 4 destroyed 14/11/46

Subject.

Gratuities exempted from income-tax and supertax.

Previous References.	Later References.

S. 97.—(Blue).

MFP—168S&P—(M-184)—11-8-34—60,000.

Official Notes
Chas Lingard
Ch/Clerks—

CORRESPONDENCE.

D.A.Dis. No. 349-I.T./33.

CENTRAL BOARD OF REVENUE.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
25 SEPT. 1933
8279

From

Rai Bahadur Pandit Ram Nath, B.A.L.,
Secretary, Central Board of Revenue,

To

The Director, Indian Institute of Science,

BANGALORE.

Simla/~~New Delhi~~ the 20th September 1933.

Sir,

Liability to tax - Indian Institute of Science - Gratuities paid to professors of - Your letter No.2 L 3/810, dated the 10th April 1933 - My letter C.No.349-I.T/33, dated the 11th August 1933.

With reference to the correspondence ending with my letter quoted above, I am directed to say that in view ~~of~~ of the decision of the Privy Council in the case of the Commissioner of Income-tax, Bengal versus Shaw Wallace & Co., the gratuities paid to the Professors of your institute are not liable to income-tax and no deduction should therefore be made on account of income-tax at the time of payment.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- Ram Nath,

Secretary, Central Board of Revenue.

Copy forwarded to the ~~Secy. to the Resident~~ Commissioner of Income-tax, Bangalore.

By order, etc.,

M.C. Khanna
21. 9. 33
for Secretary, Central Board of Revenue.

P.S.21/9.

S.N.5 Part.

Letter D.A. Dis.No.349-I.T./33, dated the 20th September 1933, from the Secretary, Central Board of Revenue.

Draft.

No. 9968 Dated 19/10/1933

Secrecy

A copy of the marginally noted paper is forwarded to the Collector and Assistant Commissioner of Income-tax, Civil and Military station, Bangalore, for information.

for SECRETARY TO THE RESIDENT
and
COMMISSIONER OF INCOME-TAX.

2.10.33

tg. gs. 16/10/33

cde 18/11/33

D.Dis.No.460-I.T./27.
GOVERNMENT OF INDIA.
FINANCE DEPARTMENT (CENTRAL REVENUES).
SIMLA, the 20th September 1933.

From

A.H. Lloyd, Esq., C.I.E., I.C.S.,
Joint Secretary to the Government of India,

To

The Secretary to the Government of Madras
Bombay
Bengal
Burma.

Department of Finance (Marine)
Political
Marine
Minerals.

Sir,

Exemption from income-tax and supertax - Gratuities - Port Trusts - Sir Alexander Tottenham's letter C.No.460-I.T./27., dated the 10th February 1933.

In continuation of the letter quoted above, I am directed to say that the view of law, on which the Government of India have all along held that the gratuities paid by Port Trusts are liable to income-tax, has now been overruled by the decision of the Privy Council in the case of the Commissioner of Income-tax, Bengal versus Shaw Wallace and Company. Consequently such gratuities are not liable to income-tax and super-tax. I am therefore directed to request that the Port Trust authorities of Madras
Bombay and Karachi
Calcutta & Chittagong
Rangoon

may kindly be informed accordingly.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- A.H. LLOYD.

Joint Secretary to the Government of India.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
27 SEPT. 1933
Regd. No. 8376
File No.

Copy forwarded to all Commissioners of Income-tax.

By order, etc.,

Assistant Secretary to the Government of India.

R.N.R.
20.9.33.

6/6

Draft.

No. 10401 Dated 6/11/1933
Rec:-one

A copy of the marginally noted paper, with enclosure, is forwarded to the Collector and Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore.

Endorsement No.D.Dis.No.460-I.T./27, dated the 20th September 1933, from the Government of India, Finance Department (Central Revenues).

2/X/33

for SECRETARY TO THE RESIDENT.
and
COMMISSIONER OF INCOME-TAX.

26.X.33

2/11/33

cdc 3/11/33

C. No. 563-I.T.|32.

CENTRAL BOARD OF REVENUE.

Simla, the 23rd September 1933.

MEMORANDUM.

Liability to tax—Lump sum gratuities.

Till recently lump sum gratuities paid by employers to employees at the time of retirement and those paid in respect of wounds or injuries received in the performance of duties or as compensation for termination of services have been held to be income liable to income-tax. It was, however, decided that it was undesirable to charge tax on certain kinds of gratuities, *e.g.*, those paid to employees of the Railway department and of the Railways in India, to officers of His Majesty's Naval, Military, Air and other forces and of the Indo-European Telegraph Department and exemption was accordingly granted by the Governor General in Council under section 60 of the Indian Income-tax Act, 1922 (XI of 1922). The position has now been altered by the recent decision of the Privy Council in the case of the Commissioner of Income-tax, Bengal *versus* Shaw Wallace and Company. The Privy Council have held that income is a periodical monetary return coming in with some sort of regularity or expected regularity from definite sources. The source, according to them, is not necessarily one which is expected to be continuously productive, but it must be one the object of which is the production of a definite return excluding anything in the nature of a mere windfall. In this view gratuities of the kind mentioned above are not income liable to tax, and the exemptions granted have consequently been rendered superfluous. They have therefore been cancelled by the Notifications of the Government of India in the Finance Department (Central Revenues) Nos. 37 and 38-(Income-tax), dated the 23rd September 1933.

30-9-33.

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax, the Army Department, Railway Department and the Industries and Labour Department.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
6 OCT 1933
Regd. No. 8611
File No.

L103CBR—905—26-9-33—GIPS

8

[R.O. 196 (a).]

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

OFFICE OF THE RESIDENT IN MYSORE,

Bangalore, 21-10-1933.

No. 9999 Enclosure

A copy of the marginally* noted paper letter, with enclosure, is forwarded to the Collector and Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore.

xx Memorandum C.No. 563-N.T./32, dated the 23rd September 1933, from xxx Secretary, Central Board of Revenue.

xxxxxxx from the

(for Secretary for signature)

for Secretary to the Resident.
and
COMMISSIONER OF INCOME-TAX.

20.X.33

22—10-4-1931—5,000—EPS.

D.O.R.Dis.No.563-I.T./32.

CENTRAL BOARD OF REVENUE.

Simla, the 30th September 1933.

My dear Kirkbride,

Gratuities (lump-sum)-Liability to tax.

You will have received a copy of our memorandum C.No. 563-I.T./32, dated the 23rd September 1933, announcing the decision that lump-sum gratuities of the kind there described are not "income" within the meaning of that term as interpreted by the Privy Council and therefore do not attract incometax or supertax. There are two points that I wish to mention in connection with this:-

(i) It has been decided by the Government of India that this decision does not apply to the accumulations of an employer's contributions and the accumulated interest in an unrecognized provident fund. Such a payment is not in the nature of a windfall but is the accumulation of a series of sums which in themselves satisfy the description of "income". The fact that payment is delayed does not take them out of the description of "income".

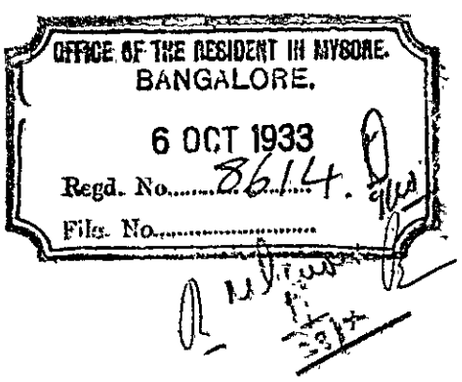
(ii) Care will, of course, be taken, especially when dealing with business concerns, to apply this decision only to bona fide gratuities of the kind contemplated in the memorandum. Under the reasoning contained in the Calcutta High Court's judgment of 8th February 1933 in the case of the Anglo-Persian Oil Company (India)Limited, it may be that a gratuity which is exempt in the hand of the recipient will also be admissible as an expense in the assessment of the employer; but where that is claimed, care must be taken never to lose sight of the proviso

appended to clause (viiia) of sub-section (2) of section 10 of the Indian Incometax Act.

Yours sincerely,

2.10.33.

To
Captain G.Kirkbride,
Commissioner of Incometax,
Bangalore.



A.S.2.10.33.

CO

D.O.No. 10440
Enc: one

THE MYSORE RESIDENCY,
Bangalore,
Dated, the 8th November 1933.

Gratuities (lump-sum) -
Liability to tax.

My dear Cooke,

I forward, for your information, a copy of a demi-official letter R.Dis.No.563-I.T./32, dated the 30th September 1933, from the Central Board of Revenue, on the subject mentioned above.

Yours Sincerely.

O/C

G.H. Cooke Esquire, M.C., I.C.S.,
Collector and Assistant Commissioner of Income-tax
Civil and Military Station, Bangalore.

GS.

HSV
6.11.33.

11

D. Dis. No. 460(i)-IT/27.
GOVERNMENT OF INDIA.
FINANCE DEPARTMENT (CENTRAL REVENUES).
New Delhi, the 27th October 1933.

From

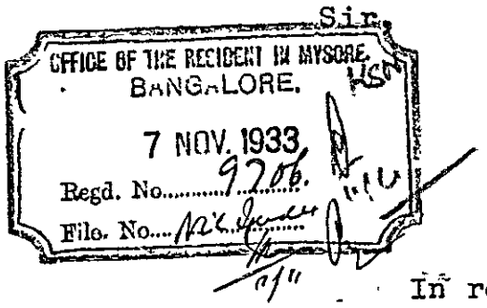
A. H. Lloyd, Esqr., C.I.E., I.C.S.,
Joint Secretary to the Government of India,

To

The Secretary to the Government of Madras
Bengal,

Finance (Marine) Department.
Marine

Sir,



Exemption from income-tax and super-tax - Gratuities - Port Trusts. This Department letter D.Dis. No. 460-IT/27, dated 20.9.33. Your letter No. 28228 Mar.-1, dated 7.10.33. 476-T/Mne, dated 20.10.33.

In reply to your letter quoted above, I am directed to say that the decision that the gratuities paid by Port Trusts are not liable to income-tax takes effect from the date of the issue of this department's orders referred to. Since, however, the decision is the outcome of a change in the interpretation of the law and not a change in the law itself, claims for refund of tax under sections 48 and 48A of the Income-tax Act will be admissible subject to the limitation laid down in section 50 of the Act.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- A. H. Lloyd,

Joint Secretary to the Government of India.

Copy forwarded to all Commissioners of Income-tax for information.

Copy also forwarded to the Governments of Bombay and Burma.

By order, etc.,

31-10-33

Assistant Secretary to the Government of India.

J.P.S.

Endorsement D.Dis.No.460(i)-IT/27, dated the 27th October 1933, from the Government of India, Finance Department (Central Revenues).

Draft.

No. 10789 Rec.1. Dated 22/11/1933

A copy of the marginally noted paper, with enclosure, is forwarded to the Collector and Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore.

for SECRETARY TO THE RESIDENT
and
COMMISSIONER OF INCOME-TAX.

17/11-33

20/11/33